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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,275

09/28/2005

Mark Christopher Hope

M02B156

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07/16/2009

Edwards Vacuum, Inc.

2041 MISSION COLLEGE BOULEVARD

SUITE 260

SANTA CLARA, CA 95054

EXAMINER

BOBISH, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

07/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,275	<b>Applicant(s)</b> HOPE, MARK CHRISTOPHER	
	<b>Examiner</b> CHRISTOPHER BOBISH	<b>Art Unit</b> 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-16 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 6-14 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

The response filed on 04/20/2009 under 37 CFR 1.131 with respect to claims 6-14 and 16 has been considered but is ineffective to overcome the Sakagami reference.

Claims 6-16 are pending, claim 15 has been amended.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakagami et al (US Patent No. 5,961,291).

Sakagami teaches:

limitations from claim 6, a method of reducing the incidence of restart failure in a dry pump comprising, monitoring the temperature of a dry pumping mechanism after cessation of the pump, **C. 3 Lines 62-65 and C. 4 Lines 14-18, examiner notes that to keep within a temperature range as suggested, the temperature must be monitored**, and initiating operation of the pumping mechanism for a fixed time period so as to purge a proportion of contaminate particulate matter present until a predefined temperature is reached or a predefined time limit has passed, **C. 4 Lines 19-38**;

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limitations from claim 16, wherein the method is stopped when the first of a predetermined temperature or a predetermined time limit has been reached, **C. 4 Lines 31-38, the method is performed before the start of the pump, and stopped once starting period is finished**; furthermore, C. 4 Lines 44-54 teach that a predetermined temperature can be reached prior to startup, at which point the method is ceased;

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakagami et al (US Patent No. 5,961,291).

Regarding claim 7:

Sakagami discloses and teaches of the method of claim 6, including a pre-selected temperature interval within which the method is performed.

Sakagami does not explicitly teach performing step c) at regular drops in the monitored temperature of the pumping mechanism.

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**However, it would have been obvious to one having ordinary skill in the art of pumps at the time of the invention to perform step c) at appropriate temperature intervals in order to provide the most complete removal of contaminate, including intervals occurring as the heated pump cooled.**

Regarding the limitations of claims 8-14:

**It would have been obvious to one having ordinary skill in the art of pumps at the time of the invention to choose, as a matter of design choice, the appropriate time or temperature intervals needed to achieve a clean pump that is capable of being restarted.**

### ***Allowable Subject Matter***

Applicant has combined the limitations of claim 15 which had previously been indicated as allowable, with the limitations contained in independent claim 6 from which it depended. Therefore claim 15 is allowed.

### ***Response to Arguments***

Applicant's arguments filed 04/20/2009 have been fully considered but they are not persuasive.

With respect to the applicant's argument that the Sakagami reference does not disclose a method suggesting a monitoring of a pump mechanism, the examiner respectfully disagrees. Sakagami teaches, in C. 4 Lines 45-54, that the heating of the pump is an important step in order to sublime the reaction product. It is also disclosed

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that the temperature reached during the heating process is held within a certain range (below the pump's heat treatment level and above the evaporation level) to avoid lowering the pump performance, while still sublimating the product. Examiner maintains that to keep a pump temperature within a specific range, the temperature must be known/controlled and therefore monitored in some way.

With respect to the applicant's arguments regarding claim 16, the examiner respectfully disagrees. The rejection of claim 16 has been modified to include C. 4 Lines 44-54 in which a predetermined temperature is reached before the method is ceased.

With respect to the applicant's argument's regarding claim 7, the examiner respectfully disagrees. The applicant argues that the processes taught by Sakagami occur before the starting of the pump. C. 4 Lines 44-54 teach that the pump is brought into a certain temperature interval, at which point the pump is started and run for some time period. The pump is therefore initiated based on a temperature being reached.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER BOBISH whose telephone number is (571)270-5289. The examiner can normally be reached on Monday through Thursday, 7:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571)272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Bobish/

/Devon C Kramer/

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Examiner, Art Unit 3746

Supervisory Patent Examiner, Art  
Unit 3746

/C. B./

Examiner, Art Unit 3746